

FILED

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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION INDIANA UTILITY
REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC SERVICE)
COMPANY ("NIPSCO") FOR (1) AUTHORITY TO MODIFY)
ITS RATES AND CHARGES FOR ELECTRIC UTILITY)
SERVICE; (2) APPROVAL OF NEW SCHEDULES OF RATES)
AND CHARGES APPLICABLE THERETO; (3) APPROVAL)
OF REVISED DEPRECIATION ACCRUAL RATES; (4))
INCLUSION IN ITS BASIC RATES AND CHARGES OF THE)
COSTS ASSOCIATED WITH CERTAIN PREVIOUSLY)
APPROVED QUALIFIED POLLUTION CONTROL)
PROPERTY PROJECTS; (5) AUTHORITY TO IMPLEMENT)
A RATE ADJUSTMENT MECHANISM PURSUANT TO IND.)
CODE § 8-1-2-42(a) TO (A) TIMELY RECOVER CHARGES)
AND CREDITS FROM REGIONAL TRANSMISSION)
ORGANIZATIONS AND NIPSCO'S TRANSMISSION)
REVENUE REQUIREMENTS; (B) TIMELY RECOVER)
NIPSCO'S PURCHASED POWER COSTS; AND (C))
ALLOCATE NIPSCO'S OFF SYSTEM SALES REVENUES; (6))
APPROVAL OF VARIOUS CHANGES TO NIPSCO'S)
ELECTRIC SERVICE TARIFF INCLUDING WITH RESPECT)
TO THE GENERAL RULES AND REGULATIONS, THE)
ENVIRONMENTAL COST RECOVERY MECHANISM AND)
THE ENVIRONMENTAL EXPENSE MECHANISM; (7))
APPROVAL OF THE CLASSIFICATION OF NIPSCO'S)
FACILITIES AS TRANSMISSION OR DISTRIBUTION IN)
ACCORDANCE WITH THE FEDERAL ENERGY)
REGULATORY COMMISSION'S SEVEN-FACTOR TEST;)
AND (8) APPROVAL OF AN ALTERNATIVE REGULATORY)
PLAN PURSUANT TO IND. CODE § 8-1-2.5-1 *ET SEQ.* TO)
THE EXTENT SUCH RELIEF IS NECESSARY TO EFFECT)
THE RATEMAKING MECHANISMS PROPOSED BY)
NIPSCO.

4 3 5 2 6

CAUSE NO. _____

VERIFIED PETITION

Northern Indiana Public Service Company ("NIPSCO") respectfully requests that the Indiana Utility Regulatory Commission (the "Commission") issue an order authorizing NIPSCO to modify its rates and charges for electric utility service; revise its depreciation accrual rates; establish, implement, and revise tracking mechanisms pursuant to Ind. Code § 8-1-2-42(a);

revise the terms, conditions and provisions of its Electric Service Tariff; approve its proposed classification of its transmission and distribution facilities in accordance with the Federal Energy Regulatory Commission's ("FERC") Seven-Factor Test; and implement an alternative regulatory plan to the extent necessary. In support of its request, NIPSCO shows the following:

A. Overview of NIPSCO's Operations.

1. NIPSCO is a public utility with its principal place of business located at 801 East 86th Avenue, Merrillville, Indiana, 46410. NIPSCO is authorized by the Commission to provide electric utility service to the public in all or part of Benton, Carroll, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, Saint Joseph, Starke, Steuben, Warren and White Counties in northern Indiana. NIPSCO is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana, including Ind. Code § 8-1-2-1 *et seq.*

2. During 2007, NIPSCO delivered more than 17,800 Gigawatt hours ("GWh") of electricity to approximately 457,000 residential, commercial, municipal, and industrial customers in accordance with tariffs, rules, and regulations approved by the Commission. More than 53% of that electricity was provided to NIPSCO's industrial customers, making its proportion of industrial load among the highest in the industry.

3. NIPSCO owns four and has the ability to operate three coal-fired generating stations with a net demonstrated capability of 2,574 megawatts ("MW"), four gas-fired generating units with a net capability of 203 MW and two hydroelectric generating plants with a net capability of 10 MW. These facilities provide for a total system net demonstrated capability of 2,787 MW. On May 28, 2008, the Commission issued its Order in Cause No. 43396 ("CPCN

Order”) granting NIPSCO a Certificate of Public Convenience and Necessity (“CPCN”) to acquire the Sugar Creek Generating Station (“Sugar Creek”), a 535 MW combined cycle gas turbine generating facility in Vigo County, Indiana, through the acquisition of the equity interests in Sugar Creek Power Company, LLC and the merger of that company into NIPSCO. In accordance with the CPCN Order, NIPSCO acquired such equity interests on May 30, 2008 at a purchase price of \$329.7 million and will merge Sugar Creek into NIPSCO in July, 2008. FERC regulates NIPSCO’s wholesale rates and services, as well as its transmission business. Pursuant to the Commission’s order dated September 24, 2003 in Cause No. 42349, NIPSCO has transferred functional control of its transmission facilities to the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”), a regional transmission organization (“RTO”) operated under the authority of FERC which controls the use of NIPSCO’s transmission system and the dispatching of NIPSCO’s generating units. NIPSCO also engages in power purchase transactions through Midwest ISO as necessary to meet the demands of its customers.

4. NIPSCO’s transmission system, with voltages from 69,000 to 345,000 volts, consists of 2,778 circuit miles. NIPSCO is interconnected with five neighboring electric utilities. NIPSCO owns, operates, manages and controls electric generating, transmission and distribution plant, property and equipment and related facilities, which are used and useful for the convenience of the public in the production, transmission, delivery and furnishing of electric energy, heat, light and power.

B. NIPSCO’s Current Rates and Rate Structure.

5. NIPSCO’s current rates and charges were approved by the Commission in its Order dated July 15, 1987 in Cause No. 38045. Those rates and charges remain in effect today

consistent with the terms of the Settlement Agreement approved by the Commission in Cause No. 41746 on September 23, 2002, *affirmed on appeal, Citizens Action Coalition of Ind., Inc. v. Northern Ind. Pub. Serv. Co.*, 796 N.E.2d 1264 (Ind. Ct. App. 2003).¹

6. NIPSCO's currently approved depreciation accrual rates for its electric and common properties were based on a depreciation study prepared in its last general rate proceeding in Cause No. 38045 and have not been modified or adjusted since that time.

7. NIPSCO files a quarterly Fuel Adjustment Clause ("FAC") proceeding in accordance with Ind. Code § 8-1-2-42(d) under Cause No. 38706 FAC XX to adjust its rates to account for fluctuations in its fuel costs.

8. The Commission has approved two tracking mechanisms that recover costs associated with Qualified Pollution Control Property ("QPCP") to allow NIPSCO to comply with various environmental obligations. On November 26, 2002, the Commission approved a Settlement Agreement in Cause No. 42150 and granted NIPSCO a CPCN for the use of certain Clean Coal Technology ("CCT"), including Selective Catalytic Reduction Systems ("SCRs"), Over Fire Air Systems, and low NO_x Burner Systems needed to comply with the Indiana State Implementation Plan ("SIP") adopted pursuant to the U.S. Environmental Protection Agency's ("USEPA") NO_x SIP Call.² Since that time, NIPSCO has been recovering a return on its investment in the CCT projects and depreciation expense and operation and maintenance expense relating thereto through its Environmental Cost Recovery Mechanism ("ECRM") and its

¹ The Settlement Agreement approved by the Commission in Cause No. 41746, also provides for certain customer bill credits that have continued beyond the initial 49 month term of the settlement but will terminate when the Commission enters a basic rate order that approves revised NIPSCO electric rates.

² The Commission's Order in Cause No. 42150 was affirmed on appeal. *Citizens Action Coalition of Ind., Inc. v. Northern Ind. Pub. Serv. Co.*, 804 N.E.2d 289 (Ind. Ct. App. 2004).

Environmental Expense Recovery Mechanism ("EERM") approved by the Commission in Cause No. 42150.

9. On July 3, 2007, the Commission issued an Order in Cause No. 43188 granting a CPCN to NIPSCO for the installation and use of QPCP necessary for compliance with the USEPA's Clean Air Interstate Rule and Clean Air Mercury Rule as those regulations apply to NIPSCO's generating facilities. Specifically, the Commission authorized the recovery through the ECRM and EERM of a return on its investment in and depreciation expense and operation and maintenance expense related to additional low NO_x Burner Systems with separate Over Fire Air Systems to be installed at its Schahfer Generating Station Unit 15 and modification of the wet Flue Gas Desulphurization systems to be installed at its Schahfer Generating Station Units 17 and 18.

10. The Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc. requires each transmission owner, including NIPSCO, to file a request with the appropriate regulatory authority for approval of the classification of its facilities as transmission or distribution in accordance with the Seven-Factor Test for classifying electric utility property set forth in FERC Order No. 888.³

11. NIPSCO is entitled to rates that provide it with an opportunity to recover its operating expenses and earn a fair rate of return on the fair value of its property used and useful in providing service to its customers.

³ *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities*, Docket No. RM95-8-000, 75 FERC ¶61,080, Order No. 888 Final Rule, FERC Stats. & Regs. ¶32,514 at 33,145 (April 24, 1996) (Order 888).

C. Relief Requested.

12. NIPSCO seeks approval of changes to its basic rates and charges for electric utility service as proposed in its evidence to be presented in this proceeding that will provide NIPSCO with the opportunity to earn a fair rate of return on the fair value of its property.

13. NIPSCO seeks approval of changes to its Electric Service Tariff including with respect to the General Rules and Regulations, the ECRM and the EERM contained therein, as proposed in its evidence to be presented in this proceeding.

14. NIPSCO seeks authority to implement a rate adjustment mechanism pursuant to Ind. Code § 8-1-2-42(a) to be filed concurrently with NIPSCO's FAC proceedings to (A) timely recover charges and credits from RTOs, including NIPSCO's transmission revenue requirement; (B) timely recover NIPSCO's purchased power costs; and (C) allocate revenues from NIPSCO's off-system sales. Each of these costs is significant in magnitude, variable over time, and largely outside of NIPSCO's control. This proposed mechanism is consistent with both the provisions of Ind. Code § 8-1-2-42(a) and with similar relief previously granted by the Commission to other utilities.

15. NIPSCO also seeks to recover in its basic rates and charges the Midwest ISO charges and credits that were deferred for subsequent recovery in accordance with the Commission's Order in Cause No. 42685 dated June 1, 2005.

16. NIPSCO proposes to reflect in its basic rates and charges capital costs and operating expenses associated with QPCP projects previously approved by the Commission in Cause Nos. 42150 and 43188 that were completed and in service at the end of the test year and that are currently being recovered through the ECRM and EERM. NIPSCO proposes to adjust

its ECRM and EERM to eliminate costs relating to those projects upon the effective date of the new base rates approved herein, subject to any necessary variance reconciliations.

17. NIPSCO seeks approval to revise its depreciation accrual rates as proposed in its evidence to be presented in this proceeding.

18. NIPSCO seeks approval for service options for its largest industrial customers, including a mechanism whereby these customers can trade contracted capacity through NIPSCO to allow these large customers to better optimize their electric usage consistent with their own production and maintenance schedules.

19. NIPSCO seeks approval of its proposed classification of electric utility property as transmission or distribution pursuant to FERC's Seven-Factor Test.

D. Sugar Creek Generating Station.

20. As discussed above, on May 28, 2008, the Commission issued the CPCN Order in Cause No. 43396 granting NIPSCO a CPCN to acquire Sugar Creek. In accordance with the CPCN Order, NIPSCO acquired Sugar Creek Power Company, LLC on May 30, 2008 at a purchase price of \$329.7 million. As discussed in the CPCN Order, Sugar Creek is contractually committed to the energy markets of PJM Interconnection ("PJM") until May 31, 2010. In the CPCN Order, the Commission found that Sugar Creek would not be in service for purposes of providing energy and capacity for NIPSCO's retail customers while it is committed to PJM. NIPSCO requests that the Commission authorize in this proceeding a second adjustment to NIPSCO's basic rates and charges that will be implemented when Sugar Creek is no longer committed to PJM and is dispatched into Midwest ISO. NIPSCO's evidence in this proceeding will quantify the revenue requirement associated with Sugar Creek to be reflected in the second

step rate adjustment. On June 6, 2008, NIPSCO filed its (A) Verified Petition For Rehearing; (B) Request for Establishment of a Subdocket for Presentation and Consideration of an Alternative Regulatory Plan; and (C) Motion for Consolidation seeking authority to defer carrying charges and depreciation expense on its investment in Sugar Creek from the date of the acquisition through the date when a return on and of NIPSCO's investment in Sugar Creek is reflected in NIPSCO's rates. NIPSCO proposes that, if such deferral authority request is granted, the second step rate adjustment include an amortization of the deferred amounts as an above-the-line expense and inclusion of the unamortized amount in NIPSCO's rate base.

E. Alternative Regulatory Relief.

21. NIPSCO is an "energy utility" as that term is defined by Ind. Code § 8-1-2.5-2 and provides "retail energy service" as that term is defined by Ind. Code § 8-1-2.5-3.

22. To the extent it may be necessary, NIPSCO requests that the Commission approve NIPSCO's proposal for a second adjustment to its rates to be implemented when Sugar Creek is no longer committed to PJM for the revenue requirement associated with the Sugar Creek plant as an alternative regulatory plan pursuant to Ind. Code § 8-1-2.5-6. To the extent any other proposals of NIPSCO herein may require alternative regulation, NIPSCO requests that they be approved as an alternative regulatory plan. NIPSCO elects to become subject to the provisions of Ind. Code § 8-1-2.5-6 for purposes of any such proposals herein.

F. Statutory Authority for Requested Relief.

23. NIPSCO believes that the provisions of the Public Service Commission Act, as amended, Ind. Code § 8-1-2-1, *et seq.* are applicable to the subject matter of this proceeding,

including, but not limited to: Ind. Code §§ 8-1-2-4, 6, 19, 20, 21, 24, 25, 42, 61, and 68, and Ind. Code § 8-1-2.5-6.

G. Procedural Matters.

24. The names and addresses of all persons authorized to accept service of papers in this proceeding are:

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25. Pursuant to 170 IAC 1-1.1-15(b), NIPSCO requests that a date for a prehearing conference and preliminary hearing be set by the Commission for the purpose of establishing a test year, adjustment methods, and rate base valuation cutoff dates to be used in this proceeding, for establishing a procedural schedule for this proceeding and for the consideration of other procedural issues. NIPSCO proposes to base the rate relief requested in this Cause upon a test year ended December 31, 2007, with a second step rate adjustment for the revenue requirement relating to Sugar Creek as described above.

26. In accordance with Ind. Code § 8-1-2-61(a), NIPSCO will publish notice of the filing of this Petition in a newspaper of general circulation published in each Indiana county in

which NIPSCO renders service. In accordance with 170 IAC 4-1-18(C), NIPSCO will notify each of its Indiana residential customers of the filing of this Petition. When NIPSCO has determined the specific amount of the requested rate adjustment based on the procedures determined at the prehearing conference and preliminary hearing, NIPSCO will give each of its Indiana residential customers further notice summarizing the nature and extent of the proposed changes. These notices will be provided via bill messaging, bill inserts, or similar mailings.

WHEREFORE, Petitioner Northern Indiana Public Service Company respectfully requests that the Indiana Utility Regulatory Commission conduct a prehearing conference and preliminary hearing, make such investigation and hold such hearings as it may deem advisable, and, thereafter, make and enter an order in this Cause:

1. Finding that NIPSCO's existing rates and charges for electric utility service should be modified; determining, and by order fixing, modified rates and charges to be observed in the future by NIPSCO; and authorizing and approving the filing by NIPSCO of new schedules of rates and charges applicable to its electric utility service that will provide just, reasonable, sufficient and nonconfiscatory rates;

2. Approving various changes in the terms, conditions and provisions of NIPSCO's Electric Service Tariff as proposed in NIPSCO's evidence herein;

3. Authorizing NIPSCO to implement a rate adjustment mechanism pursuant to Ind. Code § 8-1-2-42(a) to be filed concurrently with NIPSCO's FAC proceedings that will adjust for RTO charges and credits, purchased power costs and off-system sales as proposed in NIPSCO's evidence herein;

4. Authorizing NIPSCO to recover in its basic rates and charges previously deferred Midwest ISO charges and credits;

5. Including the costs associated with the Qualified Pollution Control Property projects that were in service at the end of the test year in NIPSCO's basic rates and charges;

6. Authorizing NIPSCO to revise its depreciation accrual rates as proposed in NIPSCO's evidence herein;

7. Authorizing NIPSCO to implement new service options for its largest industrial customers;

8. Approving NIPSCO's proposed classification of its electric facilities as transmission or distribution in accordance with FERC's Seven-Factor Test;

9. Authorizing a second step rate adjustment for the revenue requirement relating to the Sugar Creek Generating Facility to be effective when its PJM commitment expires;

10. Approving an alternative regulatory plan to the extent necessary to implement the proposals of NIPSCO in this proceeding; and

11. Granting such other and further relief as may be appropriate and proper.

Respectfully submitted,

NORTHERN INDIANA PUBLIC SERVICE
COMPANY

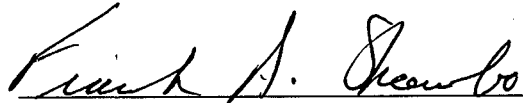
By: 
Eileen O'Neill Odum, CEO

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Verification

The undersigned hereby swears and affirms under the penalties for perjury that the foregoing factual representations are true to the best of his knowledge, information and belief.


Frank A. Shambo

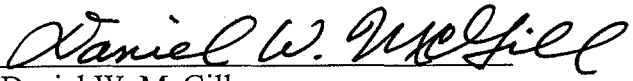
Certificate of Service

The undersigned hereby certifies that Northern Indiana Public Service Company's

Verified Petition has been served by hand-delivering two copies to:

A. David Stippler
Randall C. Helmen
Office of Utility Consumer Counselor
Suite 1500 South, 115 W. Washington St.
Indianapolis, Indiana 46204

this 27th day of June, 2008.


Daniel W. McGill